

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
New Part 4 of the Commission's Rules)	
Concerning Disruptions to Communications)	ET Docket No. 04-35

To: The Commission

COMMENTS OF PANAMSAT CORPORATION AND SES AMERICOM, INC.

PanAmSat Corporation ("PanAmSat") and SES AMERICOM, Inc. ("SES AMERICOM") hereby submit these comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") concerning the need to extend existing communications disruptions reporting requirements to communications providers who are not wireline carriers (*e.g.*, satellite communications service providers).

I. INTRODUCTION AND SUMMARY

PanAmSat and SES AMERICOM are operators of global satellite systems comprised of geostationary fixed satellite service ("FSS") space stations operating on C- and Ku-band frequencies. A leader in the commercial FSS industry, PanAmSat created the first private international satellite distribution network and currently reaches 98% of the world's population with its services. As one of the largest U.S. providers of fixed satellite services, SES AMERICOM and its affiliates provide service through a fleet of 16 geosynchronous satellites. As space station licensees, PanAmSat and SES AMERICOM

have an interest in this proceeding and the reporting requirements they would need to observe with respect to satellite and in-service transponder outages.

In the NPRM, the Commission proposes, among other things, to extend existing communications disruption reporting requirements to satellite communications service providers. PanAmSat and SES AMERICOM support the Commission's proposal, which will contribute to the reliability and security of telecommunications networks that are used in connection with virtually all government and business activities in the United States. Adopting the Commission's proposal also will give due recognition to the vital role that satellites play in the national telecommunications infrastructure and to the contributions that satellites make to national security and emergency preparedness.

In these comments, PanAmSat and SES AMERICOM seek modification of the Commission's proposed rules to take into account the fact that satellite licensees typically do not have some of the information that is called for in the reporting requirements as proposed. We also ask that the Commission clarify certain elements of its proposal.

II. DISCUSSION

PanAmSat and SES AMERICOM agree with the Commission that satellite communications systems and services are vital to both the public and private sectors in the United States. In fact, satellites are increasingly important to the national communications infrastructure. The Federal Government is reliant upon the commercial satellite infrastructure for data, voice, and video communications services, not only in support of significant services and activities important to Government missions, but also for national security/emergency preparedness and homeland security activities.

Satellites provide services and applications to a broad range of customers, including broadcast and cable telecommunications companies, television networks, financial institutions, major retailers, utilities, emergency personnel, first responders, schools, hospitals, Internet service providers and consumers, as well as Federal, state, and local government agencies. In this regard, satellites have become increasingly important for their ubiquitous communications capabilities, rapid deployment characteristics, high degree of reliability and low vulnerability to disruptions from the earth.

PanAmSat and SES AMERICOM support the FCC's proposal to extend the outage reporting requirements to communications providers who are not wireline carriers, and to have these non-wireline providers report outages that affect satellites or transponders used to provide telephony and/or paging communications. NPRM at ¶¶ 7 and 17. In addition, we agree with the Commission that an extension of these requirements to satellites or transponders used solely to provide intra-corporate or intra-organizational private telecommunications or solely for the one-way distribution of video or audio programming is not warranted and, in fact, would be impractical. NPRM at ¶ 42.

PanAmSat and SES AMERICOM believe that the rationale articulated by the Commission for the development of a common metric is adequate to address communications outages affecting any satellite link or its associated terrestrial components that are used to provide telephony and/or paging services. NPRM at ¶¶ 22 and 23. We are concerned, however, with the manner in which the proposed outage reporting requirements would affect space station licensees (either licensed by the FCC or by a foreign Administration).

Section 4.9 (d) of the proposed rules states that all “satellite communications providers” shall be required to comply with outage reporting requirements. A “communications provider” is defined as an entity “that provides two-way voice and/or data communications, and/or paging service, by ... satellite for a fee to one or more unaffiliated entities.” Section 4.3(g). “Satellite communications providers,” in turn, “use space stations as a means of providing the public with communications, such as telephony and paging.” Section 4.3(d). It is clear from these definitions that the Commission’s concerns center around the importance of satellite services to the national communications infrastructure and the effect outages would have on the provision of these services to the American public at large.

It is not clear, however, what role or responsibility different entities involved in the provision of satellite communications and services would play in reporting outages to the Commission. The NPRM indicates that “space station licensees” that are providers of satellite communications to the American public should be required to report all major failures. This requirement is applicable not only for satellites and transponders used to provide telephony and/or paging services, but also to associated terrestrial components used for satellite communications. NPRM at ¶¶ 42 and 43. The definition of “satellite communications providers” that is quoted above, on the other hand, suggests that it is the satellite licensee’s customer (*i.e.*, the party that “use[s] space stations as a means of providing the public with communications”), rather than the licensee itself, that will be subject to the reporting requirements.

As the Commission is aware, space station licensees generally provide transponder capacity to service providers or customers who, in turn, provide a variety of

communication services to end-users or consumers. Space station licensees have the ability to determine the duration of any given satellite or transponder outage and would, therefore, be in a position to determine whether a loss of complete accessibility to a satellite or any of its in-service transponders has occurred. Also, space station licensees are able to report on the occurrence of an outage or failure on an associated terrestrial component they own or operate.

However, space station licensees frequently do not know what services (e.g., telephony or paging) their transponders are used to provide. Space station licensees also are generally in no position to report on an outage in a terrestrial component or communications facility that they or their affiliated companies do not own or operate. Similarly, a space station operator will not necessarily know whether a degradation in the performance of a transponder or satellite that falls short of a complete failure is causing a loss of service. If, for example, the EIRP of a transponder is reduced due to an equipment malfunction, the satellite operator may not know whether that reduction is causing customers using the transponder to lose service.

Further, the space station licensee generally does not have at its disposal information concerning the number and type of users that can potentially be affected by an outage. Given the fluid and flexible way in which satellite facilities are utilized by entities providing satellite communications, space station licensees generally lack loading or other related end-user usage information from satellite communications providers.

Therefore, the space station licensee is in no position to determine whether or not the 900,000 “user-minutes” threshold proposed by the FCC will be exceeded during a particular satellite or transponder outage. Similarly, the space station licensee is limited

in its ability to gauge the impact of any infrastructure outages of at least 30 minutes duration that can potentially affect at least 1,350 DS3 minutes of telephony and/or paging communications, and those outages that can potentially affect any special offices or facilities.

Therefore, PanAmSat and SES AMERICOM believe that the space station licensee should, at most, be required to report to the Commission an outage of at least 30 minutes duration “that manifests itself as a loss of complete accessibility to at least one satellite or transponder.” This reporting requirement, moreover, should be limited to those facilities owned or operated by the space station licensee and used by satellite communications providers to provide telephony and/or paging services. In all other cases, in which the space station licensee may not be providing a facility used for satellite communications or in which the space station licensee may not have adequate commercial or customer information to ascertain the impact of an outage, PanAmSat and SES AMERICOM believe that imposing an outage reporting requirement on a space station licensee would be inappropriate and would put the space station licensee in an untenable position.

We also would like to point out that neither the definition of an “outage” in Section 4.5(a), nor the discussion within the NPRM, make clear the scope of the outage reporting requirement. To avoid confusion, PanAmSat and SES AMERICOM recommend that the Commission explicitly limit the reporting requirements for satellites to telephony and paging, the only two services that are identified in the proposed definition of “satellite communications providers.” The Commission also should clarify

that the reporting requirements would be applicable only to the extent that outages affect users within the United States.

In addition, the Commission should make clear that the initial report, to be filed by an operator within two hours of a reportable outage, need not contain responses to all of the questions in the proposed reporting form, which is attached to the NPRM as Appendix B. In our experience, a satellite operator typically will not have sufficient information to answer many of the questions found on the form within such a short time period after the outage occurs. Because in-orbit space stations are not physically accessible, discovering the root cause of a satellite or transponder malfunction can take weeks or months. The Commission should clarify that the filing of a report that provides the currently available information regarding an outage complies with Commission requirements even if no response is given to some items on the Commission's form. This is consistent with the Commission's current rule, which specifies that an initial outage report should provide "what information is known at the time about the service outage." 47 C.F.R. § 63.100(b), (c), (d), & (e).

Finally, PanAmSat and SES AMERICOM request that all outage reports filed with the Commission be accorded confidential treatment. We agree that reliable and secure telecommunications networks are critical in the operation of virtually all government and business activities in the United States and, therefore, there is a need for communications outage and disruptions information. However, information regarding outages can be commercially sensitive. Given the significant financial and commercial harm that would result from this information being made public, PanAmSat and SES AMERICOM believe that all outage reports concerning satellite communications should

be kept confidential by the Commission, and no information concerning the identity of the operator or user of a facility, or the facility used to provide a service should be made public.

Respectfully submitted,

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